

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 DOREEN STARRISH,

9 Petitioner,

Case No. C18-1257-JCC-MLP

10 v.

11 DEBORAH J. WOFFORD,

12 Respondent.

ORDER DIRECTING RESPONDENT TO  
FILE A SUPPLEMENTAL ANSWER

13  
14 This is a federal habeas action brought under 28 U.S.C. § 2254. In February 2019, United  
15 States Magistrate Judge James P. Donohue issued a Report and Recommendation recommending  
16 that Petitioner's federal habeas petition be dismissed as untimely under 28 U.S.C. § 2244(d).  
17 (Dkt. # 20.) In April 2019, the Honorable John C. Coughenour, United States District Judge,  
18 issued an Order adopting the Report and Recommendation with respect to Judge Donohue's  
19 conclusion that Petitioner's federal habeas petition was untimely, but referring the matter to the  
20 undersigned for further consideration of the equitable tolling arguments set forth by Petitioner in  
21 her objections to the Report and Recommendation. (Dkt. # 23.) In accordance with Judge  
22 Coughenour's Order, the undersigned deems it necessary to obtain a response from Respondent  
23

ORDER DIRECTING RESPONDENT TO  
FILE A SUPPLEMENTAL ANSWER - 1

1 to the specific equitable tolling arguments set forth by Petitioner in her objections, and to permit  
2 Petitioner to present any additional evidence she may have to support those arguments.

3 Accordingly, the Court hereby ORDERS as follows:

4 (1) Respondent shall file a supplemental answer addressing the equitable tolling  
5 arguments set forth by Petitioner in her objections to Judge Donohue's Report and  
6 Recommendation not later than ***June 24, 2019***.

7 (2) Petitioner may file a response to Respondent's supplemental answer not later than  
8 ***June 28, 2019***. Petitioner should include with her response any additional evidence she has  
9 demonstrating that she has pursued her rights diligently and that "extraordinary circumstances"  
10 made it impossible for her to file her federal habeas petition on time. *See Ramirez v. Yates*, 571  
11 F.3d 993, 997 (9th Cir. 2009).

12 In particular, Petitioner should provide the Court with documentation showing that the  
13 legal librarian at her facility did, in fact, give her incorrect information regarding the filing  
14 deadline, or she should explain why such documentation is unavailable.<sup>1</sup> Petitioner should also  
15 provide additional explanation regarding the extent of her law library access during the period in  
16 question. The Court notes that Petitioner submitted in support of her objections a document  
17 which purports to show her law library access and library closures between May 1, 2018 and  
18 August 31, 2018. (Dkt. # 21 at 13-15.) While the Court can discern from that document the days  
19 the law library was closed and the days Petitioner actually accessed the library, there are a  
20 number of days when Petitioner was apparently scheduled for law library time but did not attend.

---

21  
22 <sup>1</sup> Petitioner claims in her objections that the legal librarian at her facility advised her in  
23 writing of the length of the limitations period, but Petitioner provided no such documentation in  
support of her objections.

1 Petitioner's library attendance goes to the issue of her diligence in pursuing her rights, and she  
2 must therefore explain in greater detail the specifics of that attendance.

3 (3) Respondent's supplemental answer, once received, should be NOTED on the  
4 Court's calendar for consideration on ***June 28, 2019***.

5 (4) The Clerk is directed to send copies of this Order to Petitioner, to counsel for  
6 Respondent, and to the Honorable John C. Coughenour.

7 DATED this 4th day of June, 2019.

8  
9 

10 MICHELLE L. PETERSON  
11 United States Magistrate Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23